

Our reference: 17/43443



AUSTRALIAN  
**CRIMINAL  
INTELLIGENCE  
COMMISSION**

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[www.acic.gov.au](http://www.acic.gov.au)

20 March 2017

Mr James Smith

By email: [foi+request-3077-532a182c@righttoknow.org.au](mailto:foi+request-3077-532a182c@righttoknow.org.au)

Dear Mr Smith,

### **Freedom of Information Request ACIC 17-04**

I refer to your request for access under the *Freedom of Information Act 1982* (the FOI Act) to:

*The document(s) which describe the data provided to the external organisation(s) responsible for conducting the ballot(s) for all Enterprise Agreements put to staff for a vote. The timeframe for the request is ballots undertaken for enterprise agreements proposed to take effect after 30 June 2014.*

*Data referring to specific employees is excluded from the scope of the request.*

Your request was received by the ACIC on Thursday 16 February 2017 and the 30 day statutory period for processing your request commenced from the day after that date. A decision is therefore due to you by Monday 20 March 2017.

This is a decision made under the FOI Act in relation to documents within the scope of that request.

### **Documents identified**

I have identified two documents as matching the description of your request. Details of those documents are set out at **Annexure A**.

### **Authority and materials considered**

I am authorised under section 23 of the FOI Act to make a decision concerning the information you have requested access to.

In reaching my decision I have taken into consideration:

- the relevant provisions of the FOI Act;
- the contents of the relevant documents;
- relevant guidelines issued by the Office of the Australian Information Commissioner; and
- relevant Tribunal and Federal Court decisions concerning the operation of the FOI Act.

## **Decision**

I have decided that parts of the documents are exempt from release on the basis of section 22 of the FOI Act. An extract of the relevant exemption provision is at **Annexure B**. An explanation of the exemption relied upon is set out below.

### ***Section 22 – Deletion of documents which are not relevant or are exempt***

Section 22(1)(a)(ii) of the FOI Act permits the deletion of information that would be reasonably regarded as irrelevant to the request. In your request for documents you confirmed that data referring to specific employees is excluded from the scope of the request.

Parts of the documents identified in the schedule contain the names, employee IDs (ID/Number), employee numbers (AGS No.) and contact information for specific ACIC employees, or information which does not relate to the data provided to the external organisation. I have determined that this material falls outside the terms of your request and have deleted these under section 22 of the FOI Act.

## **Disclosure Log**

Section 11C of the FOI Act provides that information about any documents released under that Act must be published on the ACIC's website within 10 days of release, subject to the exemptions set out in section 11C(1)(a)-(d).

## **Your review rights**

If you are dissatisfied with this decision you can apply for internal review or review by the Information Commissioner. You do not have to apply for internal review before seeking the Information Commissioner's review.

### ***Internal review***

You may seek internal review by making an application in writing to the ACIC within 30 days of being notified of this decision. A written application for a review should be sent to the FOI Coordinator at [foi@acic.gov.au](mailto:foi@acic.gov.au), or by post to:

FOI Coordinator  
Australian Criminal Intelligence Commission  
GPO Box 1936  
Canberra ACT 2601

### ***Information Commissioner review***

Alternatively, you may apply in writing for review by the Information Commissioner. In making your application you need to provide:

- an address for notices to be sent (this can be an email address)
- a copy of this decision.

It would also help if you set out the reasons for review in your application. Requests for review must be in writing and can be made via the website ([www.oaic.gov.au](http://www.oaic.gov.au)), by email at [enquiries@oaic.gov.au](mailto:enquiries@oaic.gov.au), or by post at:

Office of the Australian Information Commissioner  
GPO Box 2999  
Canberra ACT 2601

If you are objecting to a decision to refuse access to documents you must apply to the Information Commissioner within 60 days of being given notice of the decision. You can contact the Information Commissioner by phone on 1300 363 992.

### **Right to complain**

You may make a complaint to the Information Commissioner about action taken by the ACIC in relation to your application. The complaint needs to be in writing and identify the agency against which the complaint is made.

The Information Commissioner may be contacted on 1300 363 992. There is no particular form required to make a complaint, but the complaint should set out the grounds on which you consider the action should be investigated.

Yours sincerely,

A handwritten signature in dark ink, appearing to read 'Shelby', with a stylized flourish at the end.

Shelby Simadas  
FOI Coordinator

**Annexure A - Schedule of documents – Freedom of Information Request no. [17-04]**

Document no.	Date	Size	Description	Decision on access	Exemption
1	08/03/2017	6 pages	Email Chain relating to Enterprise Agreement ballot	Released with deletions on the basis of one or more specific exemptions (including deletion of irrelevant matter under s 22)	s22(1)(a)(ii)
2	28/10/2017	17 pages	List of ACIC employees for Enterprise Agreement ballot	Released with deletions on the basis of one or more specific exemptions (including deletion of irrelevant matter under s 22)	s22(1)(a)(ii)

## Annexure B – Extracts of the FOI Act

### 22 Access to edited copies with exempt or irrelevant matter deleted

#### *Scope*

- (1) This section applies if:
- (a) An agency or Minister decides:
    - i. To refuse to give access to an exempt document; or
    - ii. That to give access to a document would disclose information that would reasonably be regarded as irrelevant to the request for access; and
  - (b) It is possible for the agency or Minister to prepare a copy (an ***edited copy***) of the document, modified by deletions, ensuring that:
    - i. Access to the edited copy would be required to be given under section 11A (access to documents on request); and
    - ii. The edited copy would not disclose any information that would reasonably be regarded as irrelevant to the request; and
  - (c) It is reasonably practicable for the agency or Minister to prepare the edited copy, having regard to:
    - i. The nature and extent of the modification; and
    - ii. The resources available to modify the document; and
  - (d) It is not apparent (from the request or from consultation with the applicant) that the applicant would decline access to the edited copy.

#### *Access to edited copy*

- (2) The agency or Minister must:
- (a) Prepare the edited copy as mentioned in paragraph (1)(b); and
  - (b) Give the applicant access to the edited copy.

#### *Notice to applicant*

- (3) The agency or Minister must give the applicant notice in writing:
- (a) That the edited copy has been prepared; and
  - (b) Of the grounds for deletions; and
  - (c) If any matter deleted is exempt matter – that the matter deleted is exempt matter because of a specified provision of this Act.
- (4) Section 26 (reasons for decision) does not apply to the decision to refuse access to the whole document unless the applicant requests the agency or Minister to give the applicant a notice in writing in accordance with that section.

